

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of Insurance Agency
License of Sun Surety Insurance
Company, No. 20214291, and the
Insurance Producer's License and
Notary Commission of Robert J.
Mitchell, and the Insurance Producer's
License of FERCO, Inc.

PREHEARING ORDER

A prehearing conference was held on December 1, 2005 at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401. Michael J. Tostengard, Assistant Attorney General, 445 Minnesota Street, St. Paul, MN 55101-2130, appeared on behalf of the Department of Commerce. Patrick J. Fugina, Attorney at Law, 229 Jackson St., Suite 134, Anoka MN 55303, appeared on behalf of Sun Surety Insurance Company.

Robert J. Mitchell failed to appear at the prehearing conference, did not obtain the ALJ's prior approval to be absent from the prehearing conference, did not file a Notice of Appearance, and it did not request a continuance or any other relief. The Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause, and Statement of Charges were mailed to Robert J. Mitchell, Route 1, Box 236, Sandstone, MN 55072, and to FERCO, Inc., d/b/a/Assured Bond Services, 506 Kenny Street, St. Paul, MN 55101, the addresses on file with the Department.

The Department requested that a default be entered against Mr. Mitchell, and his business, FERCO, Inc., at the completion of this proceeding.

The Department and Sun Surety Insurance Company have agreed that there is no additional discovery to be completed, and have requested that they be given time to attempt to settle the matter.

IT IS HEREBY ORDERED:

1. This matter is scheduled for hearing on **April 4, 2006**, commencing at **9:30 a.m.** at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401.

2. The parties shall exchange proposed written exhibits and witness lists, and file an index of exhibits and a copy of the witness list with this office by **March 28, 2006**. To the extent possible, the parties shall enter into prehearing stipulations regarding the facts involved in the hearing and foundation for anticipated exhibits. Any party objecting to foundation for any written exhibit must notify the offering party and judge in writing at least two working days prior to the hearing or the foundation objection is waived.

3. Hearings are ordinarily tape-recorded. In the event that any party requests a court reporter, notice shall be given to the Office of Administrative Hearings no later than **March 28, 2006**. See Minn. R. 1400.7400, subp. 2.

4. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the administrative law judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at www.oah.state.mn.us.

5. The parties have not requested accommodation for a disability or appointment of an interpreter. The Office of Administrative Hearings shall be notified promptly if either an accommodation or interpreter is needed.

6. This case may be appropriate for mediation. The parties are encouraged to consider requesting the Chief Administrative Law Judge to assign a mediator if this matter is not settled promptly.

7. No further pleadings, correspondence or orders in this matter need to be served on Robert J. Mitchell or FERCO, Inc., unless otherwise ordered by the Administrative Law Judge.

Dated this 5th day of December 2005.

/s/ Beverly Jones Heydinger
BEVERLY JONES HEYDINGER
Administrative Law Judge